

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

FEB 05 2004

Phil Lombardi, Clerk
U.S. DISTRICT COURT

1. THE CITY OF TULSA,
2. THE TULSA METROPOLITAN
UTILITY AUTHORITY,
Plaintiffs,

v.

Case No. 01 CV 0900EA(C)

1. TYSON FOODS, INC.,
2. COBB-VANTRESS, INC.,
3. PETERSON FARMS, INC.,
4. SIMMONS FOODS, INC.,
5. CARGILL, INC.,
6. GEORGE'S, INC.,
7. CITY OF DECATUR, ARKANSAS,
Defendant
s.

ORDER

This order is entered pursuant to an oral application of the Plaintiffs, and following a telephonic hearing attended by counsel for the Plaintiffs, Scott McDaniel on behalf of all the Defendants (for purposes of this hearing only), and John Everett, Court-appointed Special Master, conducted on February 4, 2004. The Plaintiffs have requested production of certain data in the possession of the United States Department of Agriculture (USDA) which has been collected and/or maintained by the USDA in conjunction with representatives of the University of Arkansas, pertaining to the development of the Phosphorus Index (PI) which the Defendants have asked the Court to adopt pursuant to the Settlement Agreement of the Parties in this case. The data is relevant to the hearing that is scheduled to be conducted by the Court in this case on Monday, February 9, 2004, regarding adoption of the applicable PI for use in the Eucha-Spavinaw Watershed. The

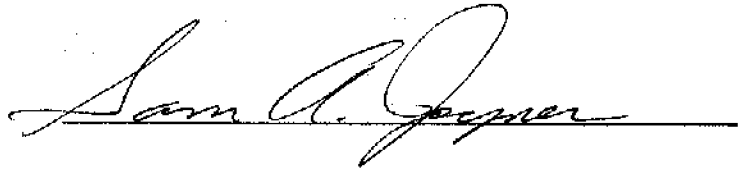
Special Master supports the production of this data, and the Defendants do not object.

IT IS THEREBY ORDERED that the USDA and the appropriate representatives of the University of Arkansas and its members on the PI team shall, immediately on receipt of this Order, produce to the Special Master for delivery to Plaintiffs copies of all relevant and material data or other information in their possession which has been used or relied upon by the Arkansas members of the PI team to validate their proposed PI which shall include Lollar's Creek Data, soluble reactive phosphorus (SRP) loads, ESPI values and any other Lollar's Creek data or other data relevant and material to any validation of the Arkansas proposed PI to include that data set that would be required by the Parties to duplicate the validation study for the purposes of verification of the validation study.

Upon receipt of the data, the Special Master shall furnish copies to the Parties as soon as possible, by the most expedient means possible, to allow for adequate study and use, as appropriate, at the hearing scheduled for February 9, 2004. The data produced pursuant to this Order shall be used solely for the purposes of this litigation and the Court's consideration in adopting a PI pursuant to the Settlement Agreement. The Parties may distribute the data to their respective clients, associates, experts or other witnesses in connection with the development of a PI in this case, and refer to any such data as necessary at the hearing scheduled for February 9, 2004, or any subsequent hearing regarding this issue. The Parties are prohibited from disseminating the data to other persons, or using or

referring to the data for any other purposes not related to the development and adoption of a PI for use in this case, without the written consent of USDA.

IT IS SO ORDERED this 5th day of February, 2004.

A handwritten signature in black ink, reading "Sam A. Joyner", written over a horizontal line.

SAM A. JOYNER
UNITED STATES MAGISTRATE JUDGE